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September 1, 2009

To: Supervisor Don Knabe, Chairman
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From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "WTF", is written over the printed name of William T. Fujioka.

SACRAMENTO UPDATE

This memorandum provides a report on SBX3 18 (Ducheny), the Assembly corrections reform measure; a pursuit of a County position on AB 1383 (Jones), which would impose a provider fee on hospitals; the status of eight County-advocacy bills; and a report on a hearing on the H1N1 (Swine Flu) pandemic.

Corrections Reform Update

SBX3 18 (Ducheny), the Assembly version of the corrections reform measure intended to reduce the State's prison population to meet a \$1.2 billion unallocated budget reduction to the California Department of Corrections and Rehabilitation (CDCR), passed the Assembly on August 31, 2009, by a vote of 41 to 37, and now proceeds to the Senate for concurrence.

Senate President pro Tempore Darrell Steinberg indicated that his house will not pass SBX3 18 without additional legislation to mirror some of the provisions of **ABX3 14 (Arambula)**, which narrowly passed the Senate on August 20, 2009, but stalled in the Assembly. Senator Steinberg also pointed out that subsequent legislation will need to make up the over \$200 million savings lost because the Assembly passed a substantially scaled-down version of corrections reform. As of this writing, no further information is available as to what these additional reforms might be.

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It should be noted that SBX3 18 does not include the sentencing commission, the alternate custody proposal, or the conversion of "wobblers" to misdemeanors. Wobblers are crimes that can currently be considered either felonies or misdemeanors. SBX3 18 includes the following provisions:

- **Property Crime Thresholds.** Increases various property crime thresholds to reflect the Consumer Price Index. Lowers the property crime threshold, including grand theft, from \$2,500 to \$950.
- **Inmate Credit Changes.** Creates an incentive for inmates to participate in programs while in prison to reduce recidivism. Specifically, this legislation would: 1) provide offenders with day-for-day credit while in jail; 2) authorize the CDCR to award enhanced credits up to six weeks per year upon satisfactory completion of rehabilitation, education, and/or vocational programs while in prison; and 3) authorize the department to extend existing enhanced credits for inmates waiting to be transferred to a fire camp.
- **Parole Policy.** Requires the CDCR to use a risk-instrument to assess the risk of parolees to the community prior to release.
- **Parole Revocation.** Reduces the level of parole supervision for low and moderate offenders convicted of non-serious, non-violent, and non-sex crimes and they will not be subject to parole revocation; however, parole supervision increases for high-risk offenders. Low and moderate offenders may have their parole reduced if they successfully complete a drug treatment program.
- **Parole Reentry Accountability Program.** Establishes a parole reentry court program which would provide rehabilitation and treatment services to certain parole violators to reduce recidivism.
- **Community Corrections.** Allows county probation departments to receive fiscal incentives for felony probationers if they remain under the jurisdiction of the county and are not sent to prison, similar to County-supported SB 678 (Leno). The FY 2009-10 State Budget Act provides \$45 million in Federal funds to probation departments for additional officers and for evidence-based programs.

This office in conjunction with the Department of Health Services (DHS), Department of Public Health (DPH), Department of Mental Health (DMH), and the Department of Public Social Services (DPSS) reviewed the amendments to SBX3 18 to determine potential fiscal or operational impacts on the County. Those departments generally note that the impact on County services appears to have been reduced largely because of

the elimination of the alternative custody proposal for lower-risk inmates; however, based on the available information it is not clear how many current State inmates would be released under the Assembly approved proposal, and how many would require County services.

The Department of Health Services indicates that greater numbers of individuals remaining on probation, instead of going to State prison, would effectively shift the burden of providing medical care for this group, resulting in higher utilization rates in an already overcrowded and underfunded County health system. While DPH is generally supportive of proposals in SBX3 18 to implement evidence-based community corrections practices and programs to include drug and alcohol treatment to reduce recidivism among felony probationers, the Department cautions that funding must be provided to avoid increased County costs during a time of limited resources. DMH also expresses concern that there is no funding provided to contract with local mental health agencies for acute hospital services, medications, placement, or outpatient mental health services for parolees, noting that State Parole has historically been unable to meet these needs. While it is unclear how many inmates would be released under SBX3 18, DPSS indicates that some portion of those released would be eligible for General Relief and employment services during their re-entry into the community.

With the elimination of the sentencing commission proposal, the District Attorney and the Sheriff have removed their opposition to SBX3 18. However, Assembly Speaker Karen Bass has indicated her intent to create such a panel through separate legislation later this year. Because the passage of SBX3 18 does not achieve the entire \$1.2 billion in unallocated budget reduction to CDCR, proposals to reduce the State prison population will likely be revisited in the Senate. The Sacramento advocates report that an "alternatives to custody" bill may be taken up in the Assembly later in the week, but it is uncertain if there are sufficient votes to pass the measure. There is no bill number or language yet to review.

Consistent with the position established in the Sacramento Update of August 14, 2009, the Sacramento advocates continue to work with the California State Association of Counties, other appropriate statewide associations, the Sheriff's Department, and District Attorney to advocate the County's interests in the development of subsequent proposals to reduce the population in the State prison system.

Pursuit of County Position on Legislation

AB 1383 (Jones), as amended on August 18, 2009, would: 1) impose a provider fee on hospitals, except for designated public hospitals, to provide increased Medi-Cal reimbursement to public and private hospitals; and 2) require the California Department

of Health Care Services to seek a state plan amendment from the Federal government to implement a supplemental payment system to hospitals.

Key aspects of the model for the hospital provider fee and the supplemental payment methodology have not yet been amended into the bill. These provisions are the subject of ongoing discussions by the Administration, legislators, and the hospital industry. The sponsors have indicated that the author will hold the bill in the Senate until these provisions are agreed to and amended into the bill. Following amendment, the bill will be sent to the Assembly for concurrence before the end of the current legislative session on September 11, 2009.

The Department of Health Services has been engaged in ongoing discussions and negotiations concerning the hospital provider fee for months, working with the California Association of Public Hospitals and the California Hospital Association (CHA). DHS has advocated for a hospital provider fee if it meets two conditions: 1) the model for the fee and distribution treats public hospitals equitably with private hospitals; and 2) it does not negatively impact the existing Medi-Cal waiver. DHS believes that the model most recently proposed by CHA would meet those criteria if amended into AB 1383, as currently drafted.

The Department of Health Services indicates that projected revenue from the hospital fee is critical for balancing the Department's FY 2009-10 budget because a number of other options were eliminated when the FY 2009-10 State Budget Act was approved. If enacted in accordance with the most recent CHA model, AB 1383 could potentially provide the County with an estimated \$115 million to \$240 million in additional revenue, depending on the date of implementation by the Federal government and the distribution methodology. The current CHA hospital fee proposal received the endorsement of a substantial majority of the CHA Board, although a few private hospitals and systems still oppose it.

AB 1383 is sponsored by the California Children's Hospital Association; California Hospital Association; and Daughters of Charity Health System; and supported by Adventist Health; American Federation of State, County and Municipal Employees, AFL-CIO; California Association of Public Hospitals and Health Systems; Citrus Valley Health Partners; Integrated Healthcare Holdings, Inc.; Loma Linda University Medical Center; Pacific Alliance Medical Center; the Children's Defense Fund California; Children Now; Children's Partnership, PICO California; Health Access California; Lucile Packard Children's Hospital; Private Essential Access Community Hospitals; St. Joseph Health System; Santa Clara County Board of Supervisors; Service Employees International Union; and California State Council.

It is opposed by the California Taxpayers' Association and the Howard Jarvis Taxpayers Association. The following groups oppose AB 1383 unless amended: California Chamber of Commerce; California Cedars-Sinai Health System; Kaiser Permanente; and Sutter Health.

The Department of Health Services and this office support a hospital fee which meets the criteria described above. Support for AB 1383 is consistent with Board policy to support proposals to expand the use of intergovernmental transfers, health provider fees, and other allowable methods to increase net Federal Medicaid and State Children's Health Insurance Program matching payments to California and health providers like the County at no cost to the State General Fund. Therefore, DHS will advocate for a hospital fee that treats public hospitals equitably with private hospitals and does not negatively impact the existing Medi-Cal waiver, and **the Sacramento Advocates will support AB 1383 upon amendment to incorporate an appropriate fee and payment structure.**

AB 1383 passed the Senate Appropriations Committee on August 18, 2009, by a vote of 8 to 5, and is currently awaiting consideration on the Senate Floor. As an urgency measure, AB 1383 would become effective immediately upon the Governor's signature.

Status of County Advocacy Legislation

County-supported AB 46 (Blakeslee), as amended on July 15, 2009, would extend the operation of the State Energy Conservation Assistance Account and the Local Jurisdiction Energy Assistance Account from January 1, 2011 to January 1, 2016, to continue the provision of energy efficiency loan and grant assistance to local governments, schools, and hospitals, passed the Senate Appropriations Committee by a vote of 8 to 5 on August 27, 2009, and now proceeds to the Senate Floor.

County-opposed unless amended AB 64 (Krekorian), as amended on June 23, 2009, would recast the Renewables Portfolio Standard Program to require that a retail seller and a local publicly-owned electric utility obtain at least 23 percent of its electricity from renewable energy resources by December 31, 2014, 27 percent by December 31, 2017, and 33 percent by December 31, 2020, passed the Senate Appropriations Committee by a vote of 8 to 5 on August 27, 2009, and now proceeds to the Senate Floor. The bill also would establish the Renewable Infrastructure Authority and related funding to provide for renewable energy designation zones and transmission corridor zones, place restrictions on the ability of solid waste conversion facilities to qualify as a renewable energy resource, and make other related changes. These restrictions would reduce the County's ability to comply with AB 939 (Statutes of 1989) which requires local governments to meet specified waste diversion goals, and could subject the County to penalties of up to \$10,000 per day.

County-supported AB 91 (Feuer), as amended August 17, 2009, would establish a pilot program in four counties, including Los Angeles, to require the installation of ignition interlock devices on vehicles driven by persons convicted of driving under the influence, passed the Senate Appropriations Committee by a vote of 13 to 0, on August 27, 2009, and now proceeds to the Senate Floor.

County-supported AB 682 (Lowenthal), as amended on June 30, 2009, would require the California Department of Social Services (CDSS) to dedicate two staff positions to evaluate State and county implementation of In-Home Supportive Services (IHSS) quality assurance and fraud mitigation requirements, was held on the Senate Appropriations Committee suspense file on August 28, 2009. These provisions are included in ABX4 19, the IHSS Reforms Budget Trailer Bill, signed by the Governor on July 28, 2009; therefore, AB 682 is no longer necessary.

County-supported AB 719 (Lowenthal), as amended on August 19, 2009, would require the CDSS to propose a Transitional Food Stamps for Foster Youth demonstration project, passed the Senate Appropriations Committee by a vote of 8 to 5, on August 27, 2009, and now proceeds to the Senate Floor. As amended, CDSS would be required to secure Federal approval to provide Food Stamp benefits for emancipating foster youth, without regard to income, during the 12-month demonstration project.

County-supported AB 1058 (Beall), as amended on August 17, 2009, would exempt the value of motor vehicles from the CalWORKs asset limit, was held on the Senate Appropriations Committee's suspense file on August 27, 2009, due to potential increased costs to the State's General Fund. The measure is now a two-year bill.

County-supported SB 600 (Padilla), as amended June 9, 2009, would impose an additional tax on cigarettes of \$1.50 per pack and an equivalent tax on other tobacco products to fund tobacco control programs, passed the Senate Appropriations Committee by a vote of 8 to 5, on August 27, 2009, and now proceeds to the Senate Rules Committee for further action.

County-supported SB 678 (Leno), as amended June 25, 2009, would provide State funding for the local supervision of adult felony probationers using savings achieved due to county efforts to reduce recidivism, passed the Senate Appropriations Committee by a vote of 8 to 5, on August 27, 2009, and now proceeds to the Senate Floor.

Joint Hearing on the H1N1 (Swine Flu) Pandemic

On August 27, 2009, a joint hearing of the Senate Education and Health Committees, the Select Committee on Disaster and Emergency Response, and the Joint Committee

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on Emergency Management was held in Sacramento to discuss the impact of the H1N1 pandemic on California's public health and education systems. Representatives from the California Department of Public Health (CDPH), the Health Officers Association of California, and the California Hospital Association testified at the hearing.

Dr. Mark Horton, Director of CDPH, reported that California is expected to receive an additional \$50 million in Federal funding to prepare for a potential pandemic, of which \$35 million will be redirected to local public health agencies. He noted that local pandemic plans are in place, and that the State has established effective communications with the Centers for Disease Control and Prevention and with local health officers. CDPH officials believe that one in four Californians could contract the H1N1 virus over the coming months, and that a sufficient supply of masks and antivirals may be a problem.

The Health Officers Association of California representative said that while public health departments are working diligently to prepare for the upcoming flu season, the recent reductions in State funding will result in the loss of communicable disease staff. A spokesperson for the California Health Association indicated that hospitals throughout the State are updating their emergency response and worker protection plans, in addition to working with local public health officers, and cautioned that they are already at or near capacity. Hospitals are in the process of establishing alternative triage sites for patients with flu-like symptoms to address the likely overcrowding.

We will continue to keep you advised.

WTF:RA
MR:IGEA:sb

c: All Department Heads
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City Managers Associations
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